

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

AMSELFILM PRODUCTIONS	:	
GMBH & CO. KG,	:	Civil Action No. 2:12-CV-03865
Plaintiff,	:	
	:	
v.	:	
	:	
SWARM 6A6DC,	:	
JOHN DOES 1-187,	:	<u>NOTICE OF MOTION</u>
Defendants.	:	

**TO: Jay R. McDaniel  
McDaniel Law Firm, P.C.  
54 Main Street  
Hackensack, NJ 07601**

PLEASE TAKE NOTICE, that on Monday, October 01, 2012, or as soon thereafter as the Court will order, Moving Defendant, John Doe 102, by and through his attorneys, Mattleman, Weinroth & Miller, P.C., will move before this Honorable Court for orders granting their Motion to Quash Plaintiff's Rule 45 Subpoena, or in the alternative, granting their Motion to Sever and Dismiss Pursuant to Rule 21 in the above-captioned matter. Your response hereto is due within the applicable time period provided by the Federal Rules of Civil Procedure.

Mattleman, Weinroth & Miller, P.C.

BY: /s Michael Mignogna, Esq.  
Michael Mignogna, Esq.  
Counsel for Defendant, John Doe 72  
Bar # 85050  
Mattleman, Weinroth & Miller, P.C.  
401 Route 70 (Marlton Pike) East,  
Suite 100  
Cherry Hill, NJ 08034  
Phone: 856.429.5507  
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DATE: October 1, 2012

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FOR THE DISTRICT OF NEW JERSEY**

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GMBH & CO. KG,	:	Civil Action No. 2:12-CV-03865
Plaintiff,	:	
	:	
v.	:	
	:	
SWARM 6A6DC,	:	
JOHN DOES 1-187,	:	
Defendants.	:	

**MOTION TO QUASH PLAINTIFF'S RULE 45 SUBPOENA  
BY DEFENDANT JOHN DOE #72**

**COMES NOW**, Defendant John Doe #72, by and through his undersigned counsel, Michael Mignogna, and pursuant to Fed.R.Civ.P. 12 and 45(c)(3), who hereby respectfully moves this Honorable Court for an Order Quashing the Rule 45 Subpoena issued to Defendant's Internet Service Provider seeking documents that identify Defendant's name, current (and permanent) addresses and telephone numbers, e-mail addresses, and Media Access Control addresses. Defendant John Doe #72 asserts that an Order to that effect is warranted because the subpoena presents an "undue burden" under Rule 45 and the Order would protect John Doe #72 under Rule 26(c). Additionally, the subpoena seeks information not directed to advancing Plaintiff's claim and "is not relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). The grounds for this motion are more fully set forth in the

*Brief in Support of: Motion to Quash Plaintiff's Rule 45 Subpoena & Motion to Sever & Dismiss Defendant John Doe #72 Pursuant to Rule 21*, filed concurrently with this Motion.

**WHEREFORE**, Defendant John Doe #72 respectfully requests this Court issue an order granting the relief requested.

Respectfully submitted this day of Monday, October 01, 2012.

/s Michael Mignogna, Esq.

Michael Mignogna, Esq.

Bar # 85050

Mattleman, Weinroth & Miller, P.C.

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v.	:	
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SWARM 6A6DC,	:	
JOHN DOES 1-187,	:	
Defendants.	:	

**MOTION TO SEVER & DISMISS PURSUANT TO RULE 21  
BY DEFENDANT JOHN DOE #72**

COMES NOW, Defendant John Doe #72, by and through his undersigned counsel, Michael Mignogna, and pursuant to Fed.R.Civ.P. Rules 12, 20 and 21, who hereby respectfully moves this Honorable Court, in the alternative to the Order Quashing the Rule 45 Subpoena, for an Order of Severance and a Dismissal without Prejudice on the basis that John Doe #72 has been improperly joined under Fed.R.Civ.P. Rule 20 and severance would better serve the interests of justice and fairness. Finally, John Doe #72 does not reside in New Jersey, he denies committing a tort in New Jersey, and has not engaged in any continuous or systematic business activity in New Jersey; there is no reason to give rise for personal jurisdiction over him in this District. The U.S. District Court for the District of New Jersey is also an improper venue for this action under 28 U.S.C.

§1400(a), the Copyright Act. The grounds for this motion are more fully set forth in the *Brief in Support of: Motion to Quash Plaintiff's Rule 45 Subpoena & Motion to Sever & Dismiss Defendant John Doe #72 Pursuant to Rule 21*, filed concurrently with this Motion.

WHEREFORE, Defendant John Doe #72 respectfully requests this Court issue an order granting the relief requested.

Respectfully submitted this day of Monday, October 01, 2012.

/s Michael Mignogna, Esq.

Michael Mignogna, Esq.

Bar # 85050

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